

**ASSEMBLY BILL**

**No. 1142**

**Introduced by Assembly Member Hancock**

February 21, 2003

An act to amend Section 5101 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1142, as introduced, Hancock. Public contracts: bids.

Existing law prohibits a bidder from being relieved of its bid unless the awarding authority consents to relieving the bidder of the bid, and authorizes the bidder to bring an action in a court, as provided, to recover the amount forfeited.

This bill would authorize the awarding authority to relieve a bidder from the forfeiture of its bond up to \$100,000 if the bidder is a nonprofit organization and a community services agency, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5101 of the Public Contract Code is  
2 amended to read:  
3 5101. (a) (1) A bidder shall not be relieved of ~~the~~-a bid,  
4 ~~unless by consent of the awarding authority consents, nor shall any~~  
5 ~~change be made in~~-may the bidder make any change to the bid  
6 because of mistake, but the bidder may bring an action against the  
7 public entity in a court of competent jurisdiction in the county in  
8 which the bids were opened for the recovery of the amount

~~1 forfeited, without interest or costs. If the plaintiff fails to recover  
2 judgment, the plaintiff shall pay all costs incurred by the public  
3 entity in the suit, including a reasonable attorney's fee to be fixed  
4 by the court the bidder made a mistake in the bid.~~

(2) A bidder may bring an action against the awarding authority in a court of competent jurisdiction in the county in which the bids were opened for the recovery of the amount forfeited, without interest or costs. If the plaintiff fails to recover judgment, the plaintiff shall pay all costs incurred by the awarding authority in the suit, including a reasonable attorney's fee to be fixed by the court.

(b) If an awarding authority for the state consents to relieve a bidder of a bid because of mistake, the authority shall prepare a report in writing to document the facts establishing the existence of each element required by Section 5103. The report shall be available for inspection as a public record. In the case of the University of California or a California State University, the report shall be filed with the regents and the trustees, respectively, and shall be available as a public record.

(c) If an awarding authority for the state determines that a bidder is a nonprofit organization registered under Section 501(c)(3) of the Internal Revenue Code and is a community services agency serving individuals who have disabilities, are homeless, or are otherwise economically disadvantaged, the awarding authority may relieve the bidder of forfeiture of the bond up to the amount of one hundred thousand dollars (\$100,000). The awarding authority shall prepare a report in writing to document the facts establishing the bidder's nonprofit status and the clientele served by the bidder.